

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

CRIMINAL 05-0111CCC

1) JOSE MARIO MONTOYA-DIAZ  
a/k/a EL VIEJO  
(Counts 1 and 5)  
2) CARLOS MARIO MONTOYA  
a/k/a Junito  
(Counts 1 and 5)  
3) ALEJANDRO GERMAN GONZALEZ  
a/k/a Saman  
(Counts 1 and 5)  
4) FARID CHAIN-CHAIN  
a/k/a Feo, Turko, El Mono, Colorao  
(Counts 1 and 5)  
5) FABIAN PADILLA-BAEZ  
(Counts 1, 2, and 5)  
6) IVELISSE NUNEZ-GUERRERO, a/k/a I've  
(Counts 1, 3, and 5)  
7) EMILIO NOVA-MOTA  
(Counts 1, 4, and 5)  
8) PASCUALA PEREZ-EFRECE, a/k/a Atena  
(Counts 1 and 5)  
9) JORGE MANOTAS-MEJIA a/k/a Capi  
(Counts 1 and 5)  
**10) JUAN CARLOS DIAZ-  
CARRASQUILLO**  
(Counts 1 and 5)

Defendants

**ORDER**

Defendant Juan Carlos Díaz-Carrasquillo has filed an objection to his Pre-Sentence Report (**docket entry 107**), claiming that since his total offense level is 21 and his Criminal History Category is III, the Pre-Sentence Report (PSR) should have stated that his Guideline Imprisonment Range is 46-57 months and not 60 months as therein expressed. Defendant recognizes in his motion that the offense of conviction, 21 U.S.C. §963, has a statutory minimum imprisonment term of 60 months, and that due to his criminal history he does not qualify for a sentence below that statutory minimum under the “safety valve” provisions, 18 U.S.C. §3553(f) and U.S.S.G. §5C1.2.

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Defendant's objection is plainly frivolous. U.S.S.G. §5G1.1(b) provides that "[w]here a statutorily required minimum sentence is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence shall be the guideline sentence." Such is the situation here, since the statutorily required minimum sentence of 60 months is greater than the 57 months maximum of the applicable guideline range. Thus, 60 months is defendant's guideline sentence, as the PSR correctly stated in its paragraph 24.

Accordingly, defendant's Objection to Pre-Sentence Report filed on August 2, 2006 (**docket entry 107**) is OVERRULED.

SO ORDERED.

At San Juan, Puerto Rico, on August 18, 2006.

S/CARMEN CONSUELO CEREZO  
United States District Judge